

Petition of the Town of Framingham for a determination of the rates applicable to the transportation and treatment of sewage pursuant to an intermunicipal agreement with the Town of Ashland.

HEARING OFFICER RULINGS ON JOINT MOTION FOR EXTENSION OF
PROCEDURAL SCHEDULE AND ON TOWN OF ASHLAND'S FAILURE TO
RESPOND TO SETTLEMENT INTERVENTION STAFF DISCOVERY

I. PROCEDURAL SCHEDULE

On February 10, 2003, the Town of Ashland ("Ashland") and the Town of Framingham ("Framingham"), jointly moved to modify the procedural schedule issued on January 6, 2003. The parties did not agree upon a single schedule, but rather, filed two different proposed schedules. As grounds for their motion, the parties state that they have had insufficient time to prepare discovery responses, that serious medical issues have prevented Ashland's lead counsel from preparing Ashland's case, and that the parties needed clarification from the Department as to the scope of the proceedings before preparing their positions (Joint Motion at 1). On February 28, 2003, the Department issued an interlocutory order on scope ("Scope Order"), limiting the scope of the proceedings to a review of the just and proper charges applicable after December 8, 2003.

Modifications to procedural deadlines may be made "for good cause shown," and should only be made sparingly. 220 C.M.R. § 1.02(5). I find that the parties have demonstrated good cause, and therefore, the joint motion is GRANTED and the procedural schedule is modified as indicated in the attached schedule. I further find, given that the Department has issued the Scope Order today, that the revised procedural deadlines will provide the parties with sufficient time to prepare discovery responses and pre-filed testimony, as well as to prepare their cases for hearing.

II. SETTLEMENT INTERVENTION STAFF DISCOVERY

On February 12, 2003, the Department's Settlement Intervention Staff propounded its First Set of Information Requests to Ashland ("SIS Discovery"). The SIS Discovery requests information that may assist the Department in determining the method of calculating charges, and information regarding the sulfide damage issue. Given the matters in dispute that are being reviewed in this proceeding pursuant to the Scope Order, the information requests are relevant and are reasonably calculated to lead to the discovery of admissible evidence. Although the structured settlement period expires on February 28, 2003, Ashland is still obligated to respond to the SIS Discovery. The Scope Order issued today has no effect on the information requested, and Ashland has had sufficient time to prepare its responses. Therefore, I direct Ashland to file responses to the SIS Discovery no later than the close of business on March 7, 2003.

Under the provisions of 220 C.M.R. § 1.06(6)(d)(3), any party may appeal this ruling to the Commission by filing a written appeal with supporting documentation by March 7, 2003. Any appeal must include a copy of this ruling.

Jesse S. Reyes, Hearing Officer

PROCEDURAL SCHEDULE

March 7, 2003	Ashland response to SIS Discovery due
March 31, 2003	Pre-filed direct testimony and exhibits due
April 30, 2003	Notice of intent to file rebuttal testimony due
May 14, 2003	Rebuttal testimony due
May 28, 2003	Last day to issue discovery
June 18, 2003	Evidentiary hearings begin
Close of record + 2 weeks	Initial briefs due
Initial briefs + 1 week	Reply briefs due